

THE *Primer*
PROPOSAL *1788*

For Enabling the

CLERGY

England, & City
TO ACCEPT *5157 a 2*
1-10

Advanced Rents in lieu of Fines,

Defended and Enforced.

A N D

The Justice of the Claim of the
TENANTS to Renew at usual Times
for usual Fines,

ASSERTED.



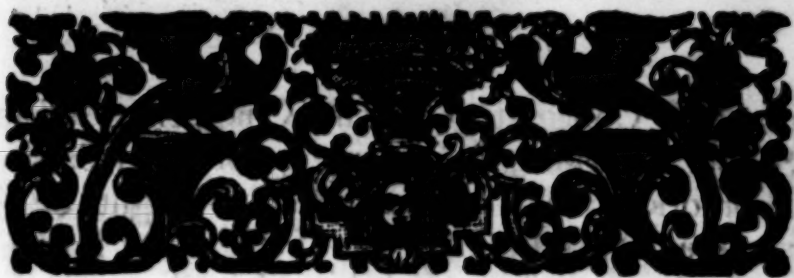
L O N D O N:

Printed for A. DODD, at the Peacock without
Temple-Bar. M. DCC. LXXXVI.

(Price Six Pence.)

THE
PROPOSAL
FOR
CLEGGY





THE
PROPOSAL
For enabling the
CLERGY
TO ACCEPT
Advanced Rents in lieu of Fines
Defended and Enforced.



IN the Winter 1731; was published a Sheet of Proposals for enabling the Clergy to accept advanced Rents in lieu of Fines.

The Purport of which was, That in all Cases where any Archbishop, Bishop, Dean, Dean and Chapter of any Cathedral, or Collegiate Church, Master, Guardian, or Guardians of any Hospital or School, Parson, Vicar, or any other, having Ecclesiastical Promotion, shall have, by Virtue of any Statute now in being, given a Lease for the Term of three Lives of any Mannor, Houses, Lands, Tithes, Tenements, or other Hereditaments, being Parcel of the Possessions of any Archbishoprick, Bishoprick, Deanery, Cathedral,

dral, or Collegiate Church, Chappel, Hospital, School, Parsonage, Vicarage, or other Spiritual Promotion, such Spiritual Persons might be empowered to release to the Tenant for Lives in Possession, to him and his Heirs for ever, all such Mannors, &c.

On Condition, That by the Grant of such Release, there be farther reserved to such Spiritual Persons and their Successors for ever, over and above all present Payments and Rents reserved the twelfth Part of the Fine last paid for a Renewal, wherein a new Life was inserted for one determined, if the said Fine was paid since the 25th of *March 1713*. But if the said Fine was paid before that Day, then the eighth Part of the said Fine to be paid Annually by half yearly Payments on the same Days with the Rent before reserved, and with the same Powers of Coercion.

Some other Conditions and Provisions followed to secure the Church from present or subsequent Fraud; and it was declared, that the proportional Advance proposed, was only substituted in the Place of the real Equivalent for the Expectation of a Fine, without presuming to determine what was the real Equivalent.

The Reasons inducing to pitch upon the twelfth Year, and the Hope, that the Proposal would not be disagreeable, were not omitted: And to screen it from the Imputation of Novelty the following Acts of Parliament, viz. 32 *H. VIII.* C. 28. 14 *Eliz.* C. 11. 22 *Car. II.* C. 11. were cited.

About the same Time appear'd a Pamphlet, which gave great Offence, said to be writ by Mr. *Fleetwood*, the Honour or Blame for which does not belong to me, for I protest I am ignorant of the Author, and had no Communication of the Design.

Mr.

Mr. *Dicaipbilus Cantabrigiensis*, one of his Adversaries, elate with his Triumph, and drunk with Zeal, after the Heat of the Day, strutted thro' a few Pages misrepresenting me.

If to adjust Punctilios between this Remarker in a Mask, and me a nameless Writer be impertinent; yet not to repel the Calumny, which he has shed upon the Proposal, which I espouse, may prejudice its Reputation: At the Hazard then of the former Charge, I beg my Reader not to credit that supercilious Gentleman upon his naked Word, who taxes me with arguing for Compulsion, which I utterly disclaim; involves the Colleges in the Question, which are not included in my Proposal; insults me for citing one Act, which is not to my purpose, and arraigns me for quoting the other two unfaithfully.

I am aware, that it will be told me, that the Generation of the Papers of that Year now sleep with their Fathers, and to quote their Pages, is sending my Reader to seek what is now no more to be found: Therefore (as the general Expectation, that a Bill will be brought into Parliament this Session to regulate the Fines in dispute, calls me to resume this Topic) I will present in one View every thing which wears the Face of an Argument in this Masquerader's Remarks, and (never to return to the Charge again) will, as I proceed, examine every Objection, every Colour, which, tho' directed against Mr. *Fleetwood*, by any of his Antagonists, glance upon the Proposal.

In one thing only we agree, *viz.* If all the valuable Interest of the Lessor be secured, a yearly Rent may be equivalent to the Expectation of a Fine.

But he thinks the Scheme insufficient to secure that Interest, or to adjust the Rent, so as to make it a certain Equivalent.

He says, that it is not at all probable, that the Value of ALL Ecclesiastic Estates was EXACTLY known, and the Fines adjusted accordingly at the last Renewal.

That were the Fines all set to the full Value, yet Ecclesiastical Lessors would suffer by this Scheme, because an Annual Payment would sink in Value, as Money and the Interest of it falls.

That by this Scheme those Landlords would be cut off from ever reaping any Advantage by the future Improvement of their own Estates.

These Objections shall be considered.

First then, If the covenanting Words in the Proposal be insufficient, it prejudices not the Cause: For if the Parliament shall permit these Fines to be liquidated, and converted into Annuities, it is not to be feared, that the enacting Terms will not be proper and secure.

As to adjusting the Rent to make it a certain Equivalent: If by the Series appealed to the Twelfth, should appear to be the mean resolving Year, in which a Fine might be calculated to be due in the given Case; I then say, that if I offer to pay every twelfth Year the Sum which would be insisted upon for that Fine, if the Pretensions to it upon that Casualty shall be waved; I offer an Advantage of equal Value with that which I expect to be quitted; if it is of equal Value, it is equivalent, and certainly equivalent, and a certain Equivalent.

And it is easy to determine what Part of a Sum should be paid yearly, to be equal to the Whole, to be paid twelve Years hence.

The whole Difficulty then of adjusting the Rent is in adjusting the Fine: For that I thought, as both Parties had acquiesced in the last, it could be no Injury to make that a Rule for a future Payment.

The Gentlemen in Question had for some Years so strictly inquired into the Value of their Estates, and had been so attentive to their Interests, and Fines had been so generally raised, that I thought the Scheme not liable to the first Objection of the Remarker; sensible, indeed, of the Flagrancy of the Case, he has so enervated his Argument by a Couple of Restrictions, that I shall let pass as inoffensive; not pretending to say, that all Ecclesiastical Estates were exactly known at the last Renewal, since he does not deny, that most of them were exactly, all of them sufficiently known, and the Fines adjusted accordingly.

To his second Objection I answer, That we are not to amuse ourselves with Dreams of a Possibility, that in some remote Age new *Indies* may emerge, and Gold and Silver flow in upon us with a Stream, to depretiate to a Pepper-Corn this scanty Equivalent.

'Tis probable that the Interest of Money may sink, but not greatly, perhaps *One per Cent.* that is, that the legal Interest may be limited to Four, and the Funds be content with Three.

This Proposal allows such an Alteration, for at Compound Interest *20 l. per Annum* for twelve Years, is equal to a Fine of *299 l.* Money at 4; Money at 3, to a Fine of *283 l.* to be paid 12 Years hence.

Yet *20 l. per Ann.* is proposed the Equivalent for a Fine of *240 l.* computed to be payable then.

I apprehend, that a Man must be very sanguine, or an errant Caviller, to oppose this Scheme from the simple Views of a more considerable Fall of Interest.

His last Topic of Arguments does not threaten to be more fatal to the Proposal, than the two examined: The Charge, indeed, is heavy, and the Words are big, " That this Scheme would, a-
" gainst

“ gainst all Reason and Equity, cut the Land-
 “ lords off from ever reaping any Advantage by
 “ the future Improvements of their own Estates.

How do Reason and Equity oppose a Gentle-
 man's being debarr'd from making any Advan-
 tage by the future Improvement of an Estate,
 which he has parted with upon a valuable Consi-
 deration?

If these Landlords do not part with their Estates
 reserving Rents, as the Scheme proposes, they
 remain possessed of their Powers: If they do part
 with their Estates, it is not unreasonable, that they
 should give up all farther Pretensions to them, and
 Expectations from them.

As to the general Charge of Injustice upon the
 Proposal, I impute it to some Prejudices, which,
 by some Strokes in his Performance, I find, had
 raised a Mist before his Eyes.

He argues, as if he thought the Distinction of
 Lessors into Lay and Ecclesiastic was proper;
 whereas, in the present Case, the Difference lies
 between Lessors in their own Right, and Lessors
 in the Right of their Preferment.

He also argues, as if he thought the Interest of
 the Lessors of the Estates in Question, greater
 than it is in those Estates.

The Distinction of Lessors into Lay and Eccle-
 siastic was improper and invidious: It is granted,
 that, *ceteris paribus*, the Ecclesiastic may insist
 on as high Terms as the Lay: But Lessors in right
 of their Preferments, whether Lay or Ecclesiastic,
 will not think themselves so well represented by
 their Successors, as Lessors in their own Right do
 think themselves to be by their Heirs: The Con-
 sequence of which is, That a Lessor, in Right of
 his Preferment, must think of an Advantage to
 descend to his Successor, not deserving to be pur-
 chased by him on so high Terms, as an Advan-
 tage

tage to descend to his Heir. If he would not purchase it so dear, it is certain he will sell it cheaper ; This is evident to every Purchaser ; and as every Bargain proceeds upon mixed Considerations of the real Value of the Thing, the Need which the Purchaser has of it, the Desire which the Seller has to part with it, and the Number of Competitors for it ; and as the two first Considerations equally effect each Class of Lessors, but the two last exceedingly depreciate the Estates to be let in right of Preferments ; it is demonstrable, that Fines, upon the Renewal of these Leases, will not naturally rise so high, as for the Renewal of others.

And upon the Presumption that, as these Fines had for some Generations continued moderate, and always much below the other, they ever would continue so (there being an apparent Reason why they should) in Process of Time the Lessors in the Leases in View had began to look upon those Estates in near the same Light as Estates of Inheritance ; they improv'd them, and built upon them, without considering the Tenure in the Expence ; settled them in Marriage Treaties, and in any of their other Negotiations.

Hence it is, that the Lessees do not allow it to be of Consequence, that the Terms of Renewal demanded of them are reasonable, because they are better than they can get of any Lay Lessor in his own Right.

From this Security they have been thoroughly roused by the indiscrete Zeal of some officious Pens ; but the Reverence due to the Public will not admit a Detail of Grievances : One Practice lately introduced of refusing a Renewal upon any Terms, when one Life is dropp'd, till the Tenant shall propose to change also one of the remaining two, and pay two Fines at once, is an Instance sufficient to make the Lessees hope, as well as to wish, that
the

the Legislature would interpose in their Behalf not to give them the just Rights of their Land lords, but to ascertain an equitable Compensation for the Fines demandable, and to enable the Lessors to accept it.

Surely it cannot be unjust in the Parliament to withdraw some of those Restraints, which they have laid upon Ecclesiastics.

Moreover, who would be injur'd by an Act upon this Plan? The Transaction, by the Words of the Proposal, is to be with the Consent of the Beneficiary in Possession; to him, therefore, no Injury is done: The Successor cannot complain, for where there is no Right, there can be no Injury, and he has no Right at the Time of the Transaction.

But a Groupe of Errors oppose this Assertion, that the Parliament may justly interpose.

The Remarker, p. 35. of his Answer to Mr. *Fleetwood*, thinks, that Ecclesiastical Corporations ought not to be tied to other Rules than the Lay, or than the Gentlemen of the *West of England* are, being sure that the Law makes no Difference in their Right.

P. 9. He is angry that the Tenant for Life thinks himself Owner of his Estate, having been so ingenious as to fancy that 26 H. 8. c. 17. calls the Lessors Owners.

That the Statute treating of Farmers and Lessees, uses the relative Words *Lessors* and *Owners*; where a Man who was not determined to be blind, must have seen, that by Farmers were meant Tenants for Years, and of their Estates the Beneficiaries were Owners; the Lessees had Lessors for their relative Word.

He treats the Lessors as Landlords of the Estates in Question, and calls those Estates their own.

Where

Where a Lease is full of Life (If I may so say) it is not improbable, that it may not determine in less than 36 Years ; where is the Ecclesiastic, who has calculated to be left in the same Station so long a Term ? Till that Lease is determined the Freehold is the Lessee, the Estate is his own, and the Lessor has no other valuable Interest in the Estate so leased, than the Enjoyment of the reserved Rent, and the Expectation of a Fine ; and for the last, he relies on the Humour, on the Judgment, and on the Circumstances of the Lessee, for he is the only Person with whom he can treat.

Should he think the Lessor's Demand unreasonable upon a Demise, and therefore refuse to treat, and chuse to wait for a Successor, or find it difficult to raise the Money he would give ; the Lessor will be satisfied, that he talks magnificiently, when he calls that Estate his own, in which the sole Property of another Person is not likely to determine, before he has quitted his Pretensions to all the Interest he might have in it.

The Term Landlord does not compleatly fit these Lessors ; it implies something more Personal than is suitable to that Case : It is annexed to the Benefice, and the Beneficiary, who is the only Usufructuary, upon proper Occasions exerts, in right of his Benefice the Acts of a Landlord.

These Rorodomontadoes would be of no Importance, did they not seem calculated to extenuate the Malignity of a Practice, which threatens to exterminate the Tenants.

The other Romantic Whims are not less extravagant, tho' they have less of Virulence in them ; for it will evidently appear, that the Care of the Gentlemen of the *West of England*, and the Care of the Beneficiaries is not so much the same, that the Beneficiaries may of Right demand not to be tied down by other Rules, than may be justly im-

posed on the Gentlemen in the *West* : Nor even do they stand upon the same Foot with the Lay Corporations.

For let it be considered, that the Sovereign Power, or the Legislature, is the Lord Paramount, or original Proprietor or Donor, under whom all these Estates are claimed.

That the Heretors are Tenants in Fee ; Lay Corporations Tenants in Trust ; Beneficiaries Tenants for Life.

The Fee then of these several Benefices, which are granted mediately or immediately by the Crown, being in the Legislature, upon the Demise of the Tenant for Life, it would be no Impeachment of his Right, nor any ways injurious to him, or any other Person, if the Legislature should declare, that when the Case should happen, those Benefices should not be granted again, but on Condition, that the new Donor, or the Successors, should renew the Leases in Question for certain Fines, or be obliged to accept certain advanced Rents in lieu of those Fines.

But such a Declaration, or such a Law, to take Place on the Demise of Tenants in Trust, or of Tenants in Fee, would be contrary to the Rights of, and injurious to the Members and Constituents of the Lay Corporations, whom the Tenants in Trust represent as Guardians, and the Fee of whose Estate perpetually resides ; derogatory too from the Rights of, and injurious to the Person of the Heir 500 Years deep in the Loins of the Heretor, by whom he is represented, and the Fee of whose Estate continually descends.

But should the Law enact, that whenever those heretable or fiduciary Estates on failure of Heirs, Resignation, or Forfeitures, should revert, the Conditions on regranting should be the same as are specified in the Case of the Beneficiaries, it would not be unjust ; for where the Estate is determined,
the

the sole Right is in the Donor, from whom it first proceeded.

But the Case of Lay Corporations, and of Ecclesiastical Corporations aggregate is not the same; the Right of the latter in their Benefices is purely Personal, and they are to be considered as so many Tenants for Life confederated.

Still another Chimera opposes my Progress.

I find my Assertion, That the Sovereign Power is the Lord Paramount, is not universally granted: For tho' the Claim of the Pope is now antiquated amongst us, the Opinion that the Right, the Title, Patronage, and Fee of these Estates is in God, is revived by a very ingenuous Gentleman, whose Labours have been of Service and Delight to the Learned, and whose Reputation will not allow me to neglect it.

Had he considered that a glowing Expression, transplanted out of the Pulpit into a Treatise upon Tenures, where Propriety of Terms is demanded, may degenerate into Enthusiastic Nonsense; had he considered of the *Habendum*, the Trusts and Limitations of that Deed, which a bloated Worm must execute to convey those Estates, when it was disposed to be bountiful to its Creator, and to enrich the ineffable Fountain of Being; he would not have been betray'd by any Provocation to let such an Absurdity drop from his Pen.

In Answer to this, I shall oppose Father *Paul's* Authority, who, treating on this Question, cap. 21. of Beneficiary Matters, expressly says, "That the Beneficiaries are the Dispensers of the Estates of their Benefices; that the Proprietor is he, to whose Favour the Donation or Will is made, and if he be not known, the Right rests in the Church."

And again, Cardinal *Cajetan* and Pope *Adrian VI*, agree, "That the Propriety of all Goods

“ belongs to the Church ; that is, to the whole
 “ Community of the Faithful in that Place, to
 “ whom they were left ; so that the Propriety of
 “ Goods in the *Roman* Church, belongs to the
 “ whole Body of the *Roman* People.”

And of Consequence, the Propriety of Goods in the *English* Church belongs really to the whole Body of the People of *England*, who are represented in Parliament, and in King, Lords, and Commons, are the Sovereign Power.

The Council of the Lawyers had more of Drollery in it : In delicate Times, on a tender Point, they dexterously avoided a Meaning in giving an Opinion, and veiling their Sentiments in their own mystic Jargon, without Offence to Prince or Pope, gravely told the Laity, when the Priest was dead, that the Fee of his Benefice was in Abeyance : *Vox & præterea nihil.*

To proceed, If the Public, as has been proved, may, without Injury to any, decree, That the beneficiary Leases after the Demise of the present Lessors shall be held under their Successors on certain Conditions, whether of advanced Rents, or fixed Fines ; it can be no Injustice to enable the present Lessors, not only to accept those Conditions for themselves, but by Deed to bind their Successors to the Observance of them.

There yet remain two popular Objections to be discussed ; for though neither of them, were they true, destroy my Position, That the Proposal invites to nothing, which is unjust, they may indispose the Minds of some to the befriending it, who would not otherwise deny their Assistance to this Cause.

The first is, That such a Law would be partial.

The Second, That Innovations are not to be hazarded on slight Occasions, especially in Matters relating to the Church.

To

To the First, I say, That particular Interests ought to give way to the general Good, nay, even to more considerable Interests, *cæteris paribus*; and this is left to every Man to judge of.

But, I say, it would not be a partial Law, since not the present Generation, but the succeeding is to be obliged; and, therefore, it ought not to be considered as a Law, obliging only the Beneficiaries, but as a Law obliging all Persons, who will be Beneficiaries.

The Laws to restrain People from making the greatest Advantage of their Estates, if such Advantage interferes with the publick Good, are usual: The limiting the Number of Sheep, which one Man may keep; the prescribing the proportionable Number of Milch Kine; the prohibiting the planting of Tobacco, are some Instances, among many, of the Truth of this Assertion.

Besides, the Obligation would not affect the Ecclesiastics as Men, but as Men incorporate, who choose to accept the Burthen for the Grace, and *volenti non fit Injura*.

As to the Objection of Innovation, this Alteration is not to be esteemed one; it is a just and necessary Provision in Aid, and in the Spirit of the present Regulations.

As soon as the Nation had cast off the Yoke of *Rome*, and found themselves free to do what was best, they limited the Power of most of the Ecclesiastics in the Estates of the Church, and reduced them from Tenants in Fee to Tenants for Life; and as the Value of an Annuity exceeds not half the Value of an Inheritance; at that Time they were abridged of half their Power in favour of the Church, except the Difference between the Value of a Fine for one Life, and of a Fine for three.

And this was found by Experience a good Law, several others in the subsequent Reigns were made

to

to apply the like Remedy to some Cases, which yet wanted it.

This prudent Care the Successors applaud, and rejoice in their Estates transmitted unimpaired.

This Provision then has been effectual to secure the Interests of the Gentlemen in Succession ; but they are not the only Persons concerned in the Transaction.

The Church, or the whole Body of the People of *England*, are the principal Party.

Alienations are not the only Evil ; Waste is to be guarded against.

Suppose the Corps of a Prebendary swallowed up by the Sea ; in this Case no Damage will accrue to a Successor ; for Cure of Souls not being annexed to this Benefice, there will be no Collation, and an Amputation of this sort the Church may suffer without Damage : But she will be affected by the Loss of Territory, and suffer both in People and in Riches.

Should the Inundation only be partial, the reserved Rent might be answered, and Churchmen, as Churchmen, be sensible of no Loss, but in the Abatement of the Fine upon the Renewal.

But the Public suffers proportionably to the Calamity, and whether it was intire or partial, was it by Neglect, it was a Waste.

Therefore it appears, that Waste may be committed in the Estates of the Church, which the Beneficiaries may not be much hurt by, though it grievously hurts the Church, or the People of *England*.

The Profit of a Territory to a People is not determined by the Extent without regard to the Culture : Loss of Territory may be repaired by Encrease of Culture, and Culture withdrawn is equivalent to Loss of Territory.

All Improvements are properly Culture.

He then who, by any Act damps the Vigour of the Tenants in pushing on the Improvement of the Estates of the Church, may properly be said to commit Waste in them.

Whoever is apprehensive that his Fine will be raised, because of his Improvement, and whoever is anxious, lest Terms should be imposed upon him, exceeding the real Value, deducting his Improvements, will abate his Vigour, lest those very Improvements, which will rivet his Chains, should expel his Posterity.

Fines raised, yet incertain, with the Doctrine sedulously inculcated, that they may equitably be pushed higher; Renewals denied, and the Right of Claim publickly disowned, have occasioned these Apprehensions, this Anxiety, and by that means commit Waste in the Estate of the Church.

When then we applaud the prudent Care of our Ancestors for preventing the Beneficiaries in Possession from committing any Waste, which may affect his Successor, shall we demur upon taking Care, that he shall not commit such Waste in those Estates, as will be prejudicial to the Church itself.

And now I think I have sufficiently vindicated the Proposal from the Imputation of Injustice.

I should now proceed directly to prove, that the Tenants in these Leases have a just Right to renew at usual Times, and at the usual Fines: But I will first endeavour to convince all the Friends of the Hierarchy, That if they consider how she will, by this Proposal, be affected in her Revenues, in the Extent, or in the Duration of her Power, they ought not to be averse from it.

As I contend for usual Fines, I must explain what I mean by that Term.

A Fine to be denominated, the usual Fine should be that Sum, which, placed out at the legal Interest, would

would produce the same Annuity, as Fines usually did, which were paid on the same Occasion.

Upon this Foundation the Proposal proceeded : For, supposing a Year's Rent to be the usual Fine, when Money was at Six *per Cent*. I proposed the Rent of a Year and Half to be the fixed Fine to be converted into an Annuity, anticipating the Fall, and calculating as if the Interest of Money was already limited to Four.

What Events the Sanguine may divine, the Womb of Time to be big with to reduce the Value of Money lower is a Secret.

Accidents there may be, which may retard its Progress downwards ; Worlds are to be lost as well as found ; *Europe* is not unequal to Calamities, which may make those distant Acquisitions useless to us : Wealth may fly with Industry before Riot and Profusion from this self-sufficient Isle, and Commerce only serve to betray our Wants to those wiser Climes, from which she was wont to fetch us Riches.

But should the Years improve upon us, and the happy Event verify the Conjecture ; the Ruin of these Dignities may have prevented it.

Therefore, without amusing ourselves with Possibilities, I thought it the fairest Method to propose a Compromise upon the present Foot, but with those Concessions in favour of the Beneficiaries, which may strongly induce them to acquiesce in it, unless they are not yet arrived, whether their Equity would indulge them, or think that a Year's Purchase, the usual Fine when Money was at Six *per Cent*. is not a proper Foundation to regulate a proportional Advance upon.

But if a strong Presumption, upon a speedy and more considerable Fall of Interest, or an Expectation of a quicker Revolution of the Fines, be the only Motives which hinder them from closing with

with this Project; the Lessees, in their Turn, have no Reason to be attached to the Liquidation of the Fine, and may be content in lieu of that Offer, with ascertaining it proportionably to the old Foundation; that is, that the Fine to be paid now, when the Money is at Five, should be the Rent of a Year and a Quarter; when Money shall be at Four, of a Year and Half; if it falls to Three, then the Rent of two Years: Or that in all Times such a Fine should be paid for a Renewal, as, at the legal Interest, would give the same Annuity as one Year's Net Rent would, Money rated at Six per Cent.

That Presumption then, and that Expectation, would not obstruct such an Accommodation; nor would it be opposed by any Arguments from the advancing Price of the Necessaries of Life; for, with the Price of the Produce, the Rent of the Land rises in Proportion.

But Fancy here puts in her Claim to be heard, and, from a competent Maintenance, Decency, and Convenience, stretches to the Necessaries of an expensive Life.

“ For why should Ecclesiastics, Men of a liberal and expensive Education, be the only Persons debarred from such a way of Life, as (in a prudent Manner) is suitable to their Degree? Why be obliged to live in a mean and despicable Manner?”

To this, since it is urged as an Argument why the Clergy should encrease their Fines, I shall only answer, That though it be uniform, it is not reasonable, that the *sui Profusus* should be *Alieni Appetens*.

But the Reflection which arises from the Use of that Argument is, That when all Orders of Men step out of their Ranks, and advance to their Destruction, there should be found Advocates

amongst the Clergy, that they might be enabled to shine in the gay Procession: That those Gentlemen, the Force of whose Doctrine, and the Beauty of whose Lives are wanted to stem the general Extravagance, should join in the Defection from Reason and from Order, are melancholy Omens of the approaching Ruin of our Country.

And if we consider the Personages, in whose Behalf this Plea is urged, the Distress is ridiculous.

The Parochial Clergy are out of the Question; the great Dignitaries, and the Confederate Bodies, want no Indulgence; the lower Ranks want such a Regulation.

They are generally content to treat with their Lessees upon the Foot of their Ancestors, and think themselves happy, when, without Delay or Contradiction, the Tenant admits the Reasonableness of the Variation of the Fine, with Regard to the Variation of the Interest.

The Sum of the Whole is this; A Statute upon either of the preceeding Plans would not sink the present Revenue of the Benefices concern'd; the Lessor would be advantaged by such a Law; and those who would lament the being deprived of an odious Power, would only quit a Prospect of Gain, which, in all Probability, without that Restraint they would never enjoy.

A Statute upon the Plan of the Proposal would be liable only to this one Objection; That tho' the Revenue should continue the same in Denomination, it may not in Value, and in Process of Time may not be sufficient to purchase the same Proportion of the Necessaries of Life, which it will now.

This is a Contingency which the present Situation of *Europe* does not promise to produce: New Branches of Trade, and an encreasing Commerce, with intestine War and general Calamities (which
God

God avert) are the several Causes which are equal to such Effect: How any of them may affect Posterity, is not the Object of Calculation.

But this may be aver'd, that it is not prudent to refuse a present Advantage in view of such a Possibility.

To this may be added, that all these Benefices, except the Bishopricks, are compatible.

These compatible Benefices have not Cure of Souls; they are Honours and Rewards not necessary to the Constitution of the Church; and, therefore, could they fall so low in their Estimation, as not to be sought, even that Incident would not be detrimental, for the Fabrics would, at least, be well supported: But vanish that Fear, they are pure Annuities, requiring no additional Expence or Labour, and therefore the Church will not want these Officers.

As to the Bishopricks, should their Revenues, in Process of Time, be unequal to the Expence which the Station demands, the annexing as many Prebends, as would answer the Exigence, is so reasonable, that it is not to be feared, that it would not be granted by the Legislature as soon as asked.

Neither is this extreme cautious Deliberation proper in the present Circumstances of the Revenue.

All the Wisdom of our Ancestors has not been fully able to provide against the wasting the Patrimony of the Church, and impoverishing the Succession.

The Practice I have hinted at of inserting Two new Lives, when one drops, is capable of introducing great Abuses.

Should a Prelate, from his Accession, steadily pursue this Method, and remain in his Seat twelve Years, his Successor might find all his Leases crammed with Life, and the fourth Part of his Income anticipated for twelve Years to come.

But give the Bishop a Cofcia for his Minister, and he will not only make this Advantage, where a Renewal is wanted, but at the Eve of his Patron's Death, this Minister may invite every Tenant, whose Lease is infirm, to change those Lives they do not confide in: By this Artifice he might evacuate two Successions.

If then, all the Wisdom of our Ancestors has not been fully able to prevent such Inroads upon the Successors, that Consideration ought to determine us to embrace a Proposal which will certainly be effectual to that Purpose, and every other Respect, is, at least, nearly as advantageous as the present Management.

The only Power of the Hierarchy, which I shall consider as affected in its Extent by this Proposal, is their Influence by Persuasion, or by Countenance upon their Charge, to dispose them to Piety and Virtue.

This Influence accompanies Esteem for Goodness and for Justice, and is incompatible with the Imputation of Avarice.

Neither *Socrates*, nor the Apostles, were more convinced, that Virtue is no Patchwork, and that the Law must be kept entire, than the very Vulgar are, when they decide upon the Character of an avaricious Man: In right of that Vice they ascribe to him all the rest.

In the Treaties about the Leases in Question, great Occasion is now given to observe, and to report the Goodness, or the Insensibility, the Justice or the Rigour, the Avarice or the Generosity of the Beneficiaries: This Occasion, with the Treaties themselves, is taken away by the Proposal.

Allow the Lessor endow'd with every Virtue proper to gain Esteem, and let him think the favourite Tables a just Rule; suppose the Lessee as positive, that a Fine proportionable to what one
Year's

Year's Rent was, when Money was at Six *per Cent.* is as much as ought to be demanded.

Unless the Lessor descends to the last Rule, he will certainly be traduc'd for Violence and Extortion.

If he does descend to that Rule, he would have got more by the Proposal, and sav'd the Contest.

And as to his Influence, it is the same, whether his ill Reputation be deserved or not; he is equally render'd incapable of doing the Good required from his Station.

What then may be apprehended from leaving those Affairs upon the present Foot, when this despicable Vice, the Reproach of old Age is the Epidemic Contagion?

The lower Posts in the Hierarchy may possibly escape the Infection thro' Strength of Constitution; for this groveling Affection can find no Place in the human Breast, till every social Virtue is extinguished, nay, even till the natural Vices have lost their Charm.

But to the richer Diocesses, those *Otia tuta* of the Clergy, where their Influence, good or bad, is vastly extensive; a Man does not arrive till full of Service, and full of Years, and hackney'd in the Ways of Life; when, if consummate Virtue and Piety do not check and temper this double Rage, he is in a Situation to give great Offence, and to do infinite Mischief.

By the Proposal then, every Member of the Hierarchy would be excused from exposing himself upon many Occasions, wherein his Behaviour, tho' in his own Opinion just and good, may purchase him great Disesteem and Hate, which swiftly circulate, and will rob him of any Influence, throughout their Course, upon the People for their Good; which Disesteem and Hate he cannot escape, without descending to lower Terms, than are the Terms of the Proposal.

And

And as to the Duration of all their Power, let it be considered, that in the present Circumstances every Person who has felt, every Person who dreads their Rigor, and every generous Soul, who abhors Oppression must be an Enemy.

Their asserting what they call their just Rights, is esteemed Rigour and Oppression, and when they go about to soften Resentment, by proving that Fines are Light and Gracious, because they are much easier than they are permitted to demand by that Rule, which, in their great Bowels, they have prescrib'd to themselves; to that Resentment they add Terror, and arm Rage with Despair.

Their Tenants then, they must look upon as a Body determin'd to embrace any Opportunity of abridging a Power so terrible; and, in that Determination, firm as *Hanibal*, sworn upon the Altar as an Enemy to the *Roman* Name.

As a People ready to consult, and prompt to unite; Identity of Tenure, which is the Band of Union, directing where to apply.

And as none but the powerful are able to dispute the Terms of Renewal, and of Consequence these Leases are more valuable to them, than to any other Purchasers; it is natural to suppose, that most of these Estates will come, e'er long, into the Hands of the Members of one or the other House.

When the *Ecclesiastics* shall have such Tenants to contend with, it is not absurd to imagine, that some Act of Violence may give Occasion to the powerful Eloquence of Interest to exert itself, and to unite those, whom the Imputation of Rigour and Oppression shall have indispos'd to the Hierarchy.

In such a Situation, we must own it possible, that Faction may prevail to hurl these restive Dignities after the Templers and the Hospitallers, and all the lazy Lubbers of *Rome*.

These are harsh Suppositions for the Mouth of a Friend ;

Friend ; and, from my Soul, I profess my self a Well-wisher to the Constitution of the Church, as it stands at present, not only from my Education, and from my ardent Love of Thee fair Peace, but that, after Examination, I think it the best Ecclesiastical Establishment in Christendom.

But sure it will be granted, that these are Possibilities, when *Charles I.* in his Message to both Houses, as quoted by *Rapin* from *Rushworth* 7, p. 880, gives one of his four Reasons, why he cannot consent to the Alienation of Church-Lands, in these Words, “ His Majesty believes it to be a
 “ Prejudice of the publick Good, many of his
 “ Subjects having the Benefit of renewing Leases
 “ at much easier Rates, than if those Possessions
 “ were in the Hands of private Men.” When those Leases then shall cease to be renew’d at much easier Rates, there will be one Reason less to prevent the Alienation.

This Reason being withdrawn, it may not be amiss to observe what the others were, “ Because
 “ it cannot be deny’d to be a Sin of the highest Sacrilege ; as also, That it subverts the Intentions
 “ of so many pious Donors, who have laid a heavy
 “ Curse upon all such prophane Violations, which
 “ his Majesty is very unwilling to undergo : Not
 “ omitting the Discouragement it will be to all
 “ Learning and Industry, when such eminent Rewards shall be taken away, which now lie open to
 “ the Children of the meanest Persons.”

If it be observ’d, that the Office of a Bishop implies neither great Revenues, nor a Seat in Parliament, and that no other Member of the Hierarchy pretends to Apostolical Institution ; the Danger must be allow’d not to be Chimerical, which results from quitting that Share of the public Benevolence, which they held by easy Fines.

For in such a Situation, as was suppos’d, a Prince who

who had emancipated himself from the strong Delusion, to laugh at the false Sacrilege and vain Imprecations, would scarce refuse to gratify his two Houses, purely, that the Children of the meanest Persons might be lur'd into the Church, where, with paltry Views, and narrow Minds, and stuff'd with Theological Literature, they might disgrace their own Order, inflame our Divisions, and spin new Veils for the Face of Truth.

The Guilt would vanish in the Communication of the Spoil.

The Prince, should he be so happy as to have no Interest separate from his People, would easily be consol'd for the Loss of the Bishop's Votes in part of their Revenues.

The Parochial Clergy universally rais'd into the real Conveniencies of Life, would soon be reconciled to a more equal, more frugal, and more modest Oeconomy in the Church.

The Public adorn'd, odious Taxes redeem'd, and other national Benefactions supply'd out of the rest of the Fragments of this rich Patrimony, would finish the Attonement to the People for the Impiety.

There are Events, to which the present Regulation of the Revenue may be infinitely more liable, than a Regulation upon the Plan of the Proposal.

May I venture to add, that I would recommend to those Gentlemen, who have study'd the Mechanism of the Mind of Man, this Consideration; that from depending for our Bread upon the Death of another, the Transition is easy from, to want it, to wish it: Inauspicious is that Situation to the Growth of general Benevolence, or the diffusive Love of Mankind; which parent Virtue must yet irradiate the Breast, before the Man can love himself with Approbation, which Bliss preceeds our being amiable to others.

Stupid is that Heart which thinks any Price too great for the Purchase of Exemption from habitual Hardness.

Let

Let him who has a Taste, calculate what publick Favour, justified by conscious Worth, is to be valued at, and throw the Amount into the Scale with the Proposal, the other must surely kick the Beam.

And now, I think, I may assert, That this Proposal would not be detrimental to the Rental of the Hierarchy in general: Would greatly advance her Influence upon the Minds of the People, to dispose them to Religion and to Virtue; and would cut off some Occasions of disobliging and incensing, which may be fatal to her Being.

I think it proper here to explain myself upon two seeming Inconsistencies, which I may very plausibly be tax'd with.

A little above, I said, the Parochial Clergy were out of the Question; and in the Proposal I had inserted Parsons and Vicars.

I have argued, That the Lay Corporations cannot justly be subjected to the same Rule, which the Ecclesiastics, I say, might reasonably be govern'd by; yet, by the Proposal, Masters and Guardians of Schools and Hospitals were to be concluded under the same Rule with the Ecclesiastic Corporations.

As to the first, I am inform'd, that there are not more than four Parsonages or Vicarages, Parcel of whose Possessions are leased for three Lives; and that those Rectors or Vicars, by whom those Leases are granted, have not the Cure of Souls within those respective Parishes; and, therefore, are not properly to be rank'd with the Parochial Clergy.

To the last I answer, The Masters and Guardians do not represent the Bodies, *over whom they preside; but the Donors of the Charities, which they dispend, as whose Executors they properly are to be consider'd; the Bodies under their Care for Education or Relief have no Interest of Right in the Estates, therefore no Injury can be done to them, as would have been to the Members of the Lay Incorporations.

And, as I thought a fix'd Revenue would better answer the End of those Foundations, than an Eventual; and that the Annuity propos'd was such a Compensation, as would well second the Intentions of the Donors, I scrupled not to leave them in the Company, with which I had found them engag'd by the Laws in Being.

I must likewise here take Notice, that my Remarker made some Excuses for the two Acts, which I cited to shew, that in the Eye of the Law, neither a Permission to alien under proper Restrictions, nor the fixing a certain Rent in lieu of Fines, had been esteem'd injurious to the Church.

14 *Eliz. c. 11.* gives Power to Lease some Houses for 40 Years, and permits them to be alien'd upon Assurance to the Grantors and Successors made in Fee-Simple of Lands of as good Value, and as great yearly Value, at the least, in Recompence.

22 *Car. II. c. 11.* Impowers the Dean and Chapter of *St. Paul's* to give Leases of some Ground for Forty Years, and so from Forty to Forty Years for ever, at a stated yearly Rent; one Year's Rent so stated to be paid by way of Fine, upon the making every new Lease.

He grants, the first to allow alienating Church Lands under such Restrictions, as are sufficient Security against any injurious Disherision of the Church; such an Exchange being fair and equitable.

The second he observes, was of a public Nature, for rebuilding the City, enlarging the Streets; that a Commission was appointed with certain Powers; that the Ground leased was for a public Use; and, that all was done with the Consent of the Dean and Chapter.

This is mere Amusement: This Bill propos'd would be of a public Nature; and, surely, it cannot be said, that an Exchange in pursuance of it by Consent of the contracting Parties on Terms, which
are

are prov'd secure against any injurious Disposition of the Church, would not be fair and equitable, because the City is not now to be rebuilt, nor the Streets enlarged, nor a Commission granted with Power to adjust Differences.

If by thus fixing for ever certain yearly Rents in lieu of Fines, the Minds of perhaps 2000 Families be quieted, and their Efforts directed to the general Good, may it not be esteem'd of public Use, though not one Foot of the Ground be dedicated a Market House?

All these Considerations are shamefully foreign to the Merits of the Cause.

Having now invalidated the Objections of the Remarker to the Proposal, vindicated it from the Imputation of Injustice, asserted the Right of the Legislature to interpose, and prov'd it agreeable to the Interests of the Hierarchy, I proceed to explain the Justice of the Claim of the Lessees, to renew at stated Times, and for usual Fines; to shew, that the ratifying this Claim will be beneficial to the Commonweal, and of Consequence, that the Lessees have Reason to hope, that the Legislature will give them a legal Remedy when this equitable Right is invaded.

As it is the Duty of every Individual within the Limits of Justice and Equity to seek and to advance the public Good, so is the Public oblig'd, within the same Limits, to procure the Good of every Individual.

And as the Lessees in Question are certain, that neither Justice nor Equity oppose their Pretensions, they look upon themselves as proper Objects of the public Benevolence.

In condescending to their Request, the Rights of no Person will be invaded; and, therefore, they have Reason to hope, that the State will not delay the conferring Happiness on several Thousands by an Act, which, at the same Time, will procure to

the Public a considerable Advantage, merely to gratify the importunate Glamour of a few Pretenders, who, in their Hopes, anticipate the Deaths of the present Dignitaries.

Nor shall I be oblig'd to prove, that fixing these Estates will be a considerable Advantage to the Public. 13 Car. II. c. 4. speaks it the Sentiment of the Legislature: "Whereas a great Part of the Lands, Part of, and annexed to the Dutchy of Cornwall, have been held by sundry Leases thereof, made for Years, and for one, two, or three Lives, by means whereof the Tenants having fix'd Estates, have been encouraged to improve and manure the same, and have improv'd the same, and therein laid out great Sums of Money in Building, and otherwise, to the great Advantage of the Public."

An incertain Tenure threatens Waste and Dilation to Beneficiary, equally as to Dutchy Lands.

To tell us, that we need not fear Renewals upon Terms reasonable, is saying nothing: What Security is it to me? How can I say to myself, that I have a fix'd Estate, because I have a Promise, that it may be continued to me upon Terms, which some-body or other shall think reasonable?

To calculate upon what any one Person shall think reasonable, whose Interest is his Counsellor, denotes a Man sanguine: But to be secure through the Perils of Deaths and Translations, that it shall never be my Chance to transact with a Person, whose Reason conforms me to his Will, betrays me to be Visionary.

If I look in the favourite Tables, which the great *Newton* is defam'd to give Credit to, I am publicly threaten'd with Terms, which a late Author has demonstrated far to exceed the Value.

If I consult the present Practice, it is various, and advances by so sensible Gradations, that I fear to be undone by the Delay of my Misfortune.

When,

When, then, the Practice is incertain, the Rule exorbitant, the Bodies with whom the Lessees are to treat fleeting, and the Period of none of their Estates remote; it is improbable they should promote the public Advantage, by improving with the same Vigour, as if they were secure of Continuance after the Expiration of their present Terms.

Adieu to the Spirit of Embellishment, of Building and Planting, and all the bewitching Projects for Posterity, which subsist not with the Terrors of so severe Inquisitors.

But to what End this Waste of Treasure, this Sacrifice of Thousands?

Will those Gentlemen, who are now Conscious of their Eminence in Learning and Virtue, be less assiduous to recommend themselves to those Marks of the royal Favour, because the Revenues have less of Hazard in them?

Will they disdain to be debar'd the Privilege of Oppression, make them push the *Nolo Episcopari* beyond a Jest?

Or do we shake with the Panic, which one of Mr. Fleetwood's Antagonists has pathetically endeavour'd to infuse, when he threatens the Land with worse than an Interdict, if we dare to touch the consecrated Rental?

But yet a stronger Plea than this have the Tenants to engage the public Assistance: For these Estates they have bought, they have improv'd under Guaranty of Parliament.

The Statute, indeed, is not express in their Case, but proceeds in one Parallel to it, upon Reasons equally conclusive in both.

12 Car. II. c. 31, is intitl'd, An Act for Confirmation of Leases, and Grants for Colleges and Hospitals: The Purport of it is to ratify all the Proceedings of those Powers *de Faëto*, as if they had been *de Jure*.

Some, which were irregular, are excepted out
of

of the general Confirmation : The first Exception, in Case of a College Lease, runs thus ; “ Provided
 “ always, and be it enacted, That this Act shall
 “ not extend to confirm any Lease or Leases of
 “ the Rectories and Parsonages of *Randal* and
 “ *Littlecoats*, in the County of *Lincoln*, which have
 “ long since been in the Tenure or Occupation of
 “ *John Lord Culpeper*, as by several Leases under
 “ the Seal of the Master and Fellows of the College
 “ of the *Holy and undivided Trinity*, within the
 “ Town and University of *Cambridge*, of King
 “ *Henry VIII*’s. Foundation, may appear, and are
 “ now Leased over the Head of the said *John Lord*
 “ *Culpeper*, the antient Tenant, to one *John West*,
 “ though, according to Usage, he claim’d to re-
 “ new his Lease three Years before the Expiration
 “ thereof, at the usual Fines, or more : But that
 “ the said *John Lord Culpeper*, his Executors or
 “ Administrators, reimbursing the said new Tenant
 “ or Lessees so much Money as hath been really
 “ paid to the said College for the Fine for such
 “ Lease, they shall be admitted to renew the said
 “ Lease for the said Fine.”

Upon the Face of this Clause these Inferences arise :

There was an Usage for Tenants to claim to renew within a certain Time before the Expiration.

Their Claim was to renew at the usual Fine (for the Words, or more, are in Aggravation.)

Their Claim was of Right, and according to Law ; for the Parliament vacated the Lease in Prejudice of this Claim, and order’d Right to be done to the antient Tenant according to his Claim.

Sure the Right of Tenant for Life, is not more infirm, than that of Tenant for Years ; nor Beneficiary Leases more precarious than the Collegiate.

Another Inference from this Act, I think very probable, which is, that the Rareness of Exceptions from the general Ratification (it not being to be imagin’d, that at that Time, any Instances of the like

like Hardships would be omitted) argues the Minds of those *de Facto*, Masters and Governors to have been possess'd with a strong Sense of the Rights of the Tenants, for nothing else could be capable in those Days of Violence to restrain them through so many inviting Opportunities from enriching themselves by the Spoil of Malignants.

It must here be observ'd, that the Powers in Possession from 1642, had disabled the whole Hierarchy from doing Acts of this sort, which could be cavil'd at.

'Tis highly probable, that before that Time (no more than 107 Years having run since 26 H. VIII. the Tenants had no Reason to complain.

As Grievances cannot, therefore, be redress'd before they are felt, it can with no more Colour of Equity be argued from the Silence of the Law in their peculiar Care, that rejecting the Claim of a Tenant to renew, at the usual Time, or insisting upon more than the usual Fine, is not unjust, than that Parricide would not have deservedly met with a Punishment from that People, whose Virtue had not given them Occasion to prohibit it by Law.

But tho' there be not a Statute express in this Case, the Sentiments of the Lower House of Parliament were sufficiently understood by their Resolution in Sir *Thomas Woodcock's* Case: For March 10th, 1661, his Petition was read there, alledging,

That his third Life fail'd in Feb. 1659. That he had apply'd to the Bishop of *Chichester* as soon as he was in a Capacity to renew; That the Bishop had refus'd him, on pretence, that he had granted the Lease to his Son.

This Case the Commons recommend to the Commissioners to adjust, and wanting Success to report their Opinions to the House: They also recommend to the Bishop to renew the Lease in Question to Sir *Thomas*, at a moderate Fine, according to ancient Use.

These

These are my Observations upon this Case.

The See of *Chichester* was full at the Restoration, and the Convention Parliament, in which the Bill confirming College Leases pass'd, was dissolv'd 29 Dec. 1660, after it had been adjourn'd from Sept. 13, to Nov. 6.

The first Session of the next Parliament begun May 8, 1661. The Bill to restore the Bishops pass'd July 30, after which it was adjourn'd to Nov. 20. when they first took their Places.

Once more the House was adjourn'd, and once prorogu'd, according to which Prorogation, the Parliament met again, Feb. 18, 1661, and March 10 following the Petition was read.

From these Dates it appears, that there might intervene between Sir *Thomas's* Application to the Bishop, and his Petition to the House, 21 Months; Half of which Time the House was sitting, and, by the Words, he apply'd as soon as he could.

It is near certain, that Sir *Thomas* would petition as soon as he could, after his Treaty with the Bishop was at an End, and not petitioning in the last Adjournment, which was held Jan. 7. It is as plain, that the Bishop had not come to a Resolution to give the Lease to his Son before that Time, so that computing 19 Months between May 29, 1660, and Jan. 7, 1661, we have the Interval in which the Bishop had not ventur'd to give Sir *Thomas* a Denial.

But between the Bishop's taking his Place in Parliament Nov. 20, and Sir *Thomas's* Petition March 10 following, is little more than 3 Months.

So that the State of this Treaty seems to be this: The Lessee insisted he had a Right, the Lessor would not say he had not: As before Nov. 6, 1660, the Parliament had given no Decision upon the Leases, they both might be willing to attend to the Proceedings of that Body for a Direction to their own.

The

The College Bill pass'd Dec. 29, 1660, which surely was favourable to the Lessee, and accordingly he was kept in Hopes.

Now as it was evident to the Bishop, that it was more advantageous to himself to give that Lease to his Son, than to admit Sir *Thomas* to renew for the usual Fine ; he had nothing to Balance in this Case, but whether it was right, and whether it was safe to act according to his Interest : As nothing happened during that Time, to persuade him that it was right ; but as his new Seat in Parliament might well inspire him with Courage to think it was safe ; we must fix his Resolution to break with Sir *Thomas* to sometime subsequent to that Day of Joy.

And that the Cause may be adequate to the Effect, take *Horace's* Word,

————— *Beatus enim jam
Cum pulchris Tunicis sumel nova Consilia & spes.*

As soon then as the Bishop had ventured to speak out, and Sir *Thomas* was convinced he had been abus'd, he petitions the House of Commons for Redress.

This Treaty could not have subsisted so long, without the Bishop's Allowance of Sir *Thomas's* Right to renew ; and the Lateness of Sir *Thomas's* Complaint is owing to his being amused with Hopes of Justice without it ; his Right he had asserted in his Application, and had no Ground of Complaint, till that had fail'd of Success.

Now was the Cause between Lessors and Lessees at Issue at the Bar of the House of Commons.

Never could Lessee have a weaker Plea, than had that Plaintiff then.

The Bishop's Defence was big with every favourable Circumstance, every Pretence of Right that Lessor e'er could urge, with this peculiar ensnaring Incident, to extenuate the Rigour of the Proceeding, that without any Artifice, any affected Delay

of his the Lease, had laps'd, and the Tenant's Term was expir'd before he was restor'd to his Power ; That Sir *Thomas* was, therefore, a Stranger to him, no Privity between them, and that there was no Foundation for any Treaty, but for the Purchase of a new Lease ; for he had enjoy'd his Term, and receiv'd what he had contracted for.

But supposing that the Plaintiff should, by the Tenderness of the House, be put into the Condition he was in, when the first Life drop'd ; he would then have had only a Title to make an Offer, which the Defendant would have had in his Election to accept or refuse ; had he refus'd, both the Parties would have been in the same Case they are in at present ; and surely the House would not then have interpos'd, and determin'd, that it was not in his Power to refuse ; yet, in effect, they do determine, that now, if they decree, that he shall allow the Plaintiff to renew.

Moreover, should the House think, that in Equity he ought not to have insisted on the Lapse, and that it was taking the Advantage of the Rigour of the Law, to grant the Lease in Question to another, yet *Quod fieri non debuit, factum valet*.

He had granted it to another, and he presum'd that the House would not think that Act not to be legal, without which it could not be vacated.

These Arguments, with whatever else was urg'd in the Bishop's Defence, were of no Weight with the Commons, as appears by their Order.

The Word [Recommend] was as high a Word, as they had Authority to use ; and, therefore, is of equal Validity to express their Opinion of the Case, as any juridical Word is to express the Sense of the Courts in *Westminster-Hall* of any Case before them.

But this Order does not only convey to us the Sense of that House, but of the other two Branches of the Legislature.

The Bishop well knew the Votes of the Commons
had

had lost their Thunder ; and, therefore, would not easily have been mov'd by them to quit his Hold, and retire from the Prey with so much Dishonour.

His Submission, therefore, to that Order, must be ascrib'd to the Knowledge he had of the Sentiments of the Crown, and of the Lords, which his Situation gave him sufficient Opportunity to attain.

He knew the Report of the Commissioners was not Matter of Curiosity, but Provision for an Order to bring in a Bill to compel him, should he not comply. Therefore, giving Way to the Storm, which he was not able to weather, he submitted to their Decision.

Thus have we the express Voice of the Commons ratify'd by the Crown, and the Lords as virtually attested by the Bishop of *Chichester*, in Favour of the Lessees.

This well may be call'd the Minutes of a Law.

Had not the Bishop been thoroughly satisfy'd, probably the Lessees would have then receiv'd that Protection of the Legislature, which they now implore ; surely, not in vain ; for it would be a preposterous Misfortune to labour under Oppression for no other Reason, but that their Rights were so notorious, so incontestable, that they were thought no more to want a Guard, than first Principles a Proof.

If, before this Period, the Purchaser had Reason to be anxious, lest a Custom, which (tho' unvary'd through a long Succession) had not obtain'd the Force of a Law, might expose his easy Faith, indulgent to expensive Fancy, to the severe Derision of *Caveat Emptor* : After these Parliamentary Proceedings, he might well be secure.

And whoever has purchas'd since that Period, may well be said to have purchas'd, relying on the public Faith.

Upon the Review of what is said, it cannot be deny'd, that if a Judgment in *Westminster-Hall*, or a

Decree in *Chancery*, in parallel Cases, be sufficient to give Security ; no Man could reasonably doubt, that ever he should be refus'd to renew at the usual Time, for the usual Fine, who had perus'd this Act of Parliament, and this Order. He might well calculate never to want the Assistance of the State in a Juncture more inauspicious to his Claim.

The Time was the Honey Moon of Prerogative and Ecclesiastical Power. The King, eminent for an hereditary, overweening Indulgence to the Clergy. The Bishops abandon'd to the Crown, fresh, vigorous, and indulg'd in the Exercise of their new recover'd Power ; themselves a great Part of the Upper House ; and one Object of the public Dotage.

The Lower, complaisant, even to prevent the King's Wishes. And tho' the Lessee was a Royalist, the Bishop was no Republican. Should *Woodcock's* Heir have now the like Contest with the Successor of that Prelate. The Times are the Halcyon Days of Liberty from either Tyranny. The Prince upon the Throne, the equal Father of all his People. The Spiritual Lords a small Part of the present Peerage. This House of Commons, emulous of the last, whose Praise it will ever be to have been Patrons of Liberty, warm Assertors of Equity, in Opposition to the Rigour and Chicane of the Law ; Encouragers of every Proposal for the Distinction of Property, the Propagation of Trade, and the Culture and Improvement of our native Soil. Added to those, whom the Equity of his Cause, and a due Deference to the Orders and Resolutions of the House, would range on the Side of his Petition, he might count among his Friends, all whom Possessions of the like Tenure subjected to the like Attempt ; all the Enemies to the Hierarchy, her Grandeur or Jurisdiction ; all those who are zealous for her Honour, or watchful for her Security ; all the money'd Men, who, tho' inquisitive for Purchases, have been driven from these Titles by the late Incroachments. Such

Such a Situation of Affairs, might tempt him to try the Issue again, and humbly to represent, that he was possess'd of that Estate by Lease, under this See, which by Direction of that House, the then Bishop had regranted to his Ancestor. That he had so understood the Statute of the 12th, and the Order of the House in 14 *Car. II.*, as to believe, that he had a Right to claim to renew at the usual Times, for moderate and usual Fines. That, in pursuance of that Belief, he had cultivated, planted and embellished the said Estate at a great Expence.

That the Bishop does not, upon his Application, absolutely refuse to allow him to renew, but insists upon such a Fine, as is neither usual or moderate.

He owns it does exceed the utmost Value of the Term to be added, computing the Result of his own Expence; and, that, without the Interposition of the Legislature, rather than abandon all his Projects, and expose himself in Age to be expell'd his favourite Home, he must submit to the Terms impos'd. But he insists upon it, that, had he apprehended such an Advance, he would carefully have avoided any Expence, the Advantage of which would have been felt beyond his Term: And leaves it to the House to determine, how consistent it is with the general Good, to permit any Attempt, which will make Improvements Penal, and dispiriting the Tenants, make them look with a negligent Eye on Waste and Dilapidation, thro' the extensive Territories held by such Leases under the Beneficiaries. Moreover, that the constant Regularity observ'd, had induc'd his Ancestor, who purchas'd the Lease, to pay for it a much higher Price (valuing the Security of continual Possession) than he would have paid for the naked Term, or than heretable Leases, with the same express Conditions were usually sold for. That he is given to understand, that the ordinary Courts of Judicature have no Power to relieve him; and, therefore, desires
such

such Redress, as the Wisdom of the House thinks proper. Should a Bill brought in on Occasion of this Petition, gain the Royal Assent; the Wisdom and Equity of the Legislature would be applauded by all, whom neither Interest, Superstition, nor a timorous Adherence to a Phantom of Justice does delude. We ought to distinguish between Law and Right; some Things are lawful, which are not strictly just. Our Adversaries triumph in having the Law on their Side; we say, 'Tis legal Outrage, and establish'd Guile: 'Tis the very Grievance we complain of. Till lately the Inconvenience of the present Regulation was not discover'd, and, therefore, no Complaint; but that very Circumstance is full of Reasons for the Provision we contend for.

Sure it cannot be thought hard to tye a Body of Men down to Rules, which they themselves, by a voluntary Submission to through such a Series of Years, have taught us to think equitable; especially, when the only Instance, which History has preserv'd to us of an Attempt during that Time, of one of that Order, to depart from them, tho' in Circumstances the most favourable to authorize his Design, was discountenanced by the Commons in so strong Terms, that by a ready Submission to their Will, he chose to prevent the Preparations of a Bill, which he was conscious, neither Eloquence nor Favour could prevent passing into a Law.

We properly then can be said to petition for no more, than that an Innovation, which is unjust, may be declar'd to be illegal: And that the Tenants may by Law be secur'd in that Claim, which the Practice of many successive Generations, the tacit Consent of the Interested, the Decision of the Legislature in a parallel Case, and the Sentiment of the Commons express to the Point, have already declar'd to be equitable.